THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.271 OF 2006

Date:06-02-2006

Between:

The Commercial Tax Officer …. Petitioner

And

Union of India rep. by the

Secretary, Ministry of Railways, Delhi

And others … Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.271 OF 2006

O R D E R (Per the Hon'ble Sri Bilal Nazki, J):

The grievance of the petitioner was that the respondents were not cooperating with them in seeing that the provisions of A.P.VAT Act, 2005 are being complied with and they had sought from this Court the following directions.

1. *To direct the respondents to comply with the statutory provisions of the AP VAT Act and also the instructions of the Government of India dated 27-01-2005 by permitting the petitioner and its officials to inspect the parcel offices of the respondents and to take all consequential action including seizure and confiscation of the goods not covered by proper documents or covered by fictitious documents as per the provisions of A.P.VAT Act and Rules, 2005.*

2. *To direct the 5th respondent herein to insist for the TIN No. under the A.P.VAT Act, 2005 and other full details of the consignee while delivering the goods to the consignee or to his agent and to pass such other order or orders.*

Counter has been filed and the respondents have stated in para 12 of the counter as follows:

> *"When the above matter was listed on 25-01-2006, a statement was made across the bar by the Senior Counsel appearing for Railways that the respondent Railway Administration would cooperate with the Commercial Tax Department in the course of its check, but the Commercial Tax department should be obligated to keep the goods in their custody after effecting due seizure, in the eventuality of it requiring such goods for their investigation. This has become absolutely essential in view of the paucity of the space in parcel office and retention of huge number parcels in terms of the directions of the Commercial Tax Department would cause inconvenience to the administration as well as trade. The course suggested was also agreed to by the learned counsel appearing for Commercial Tax Department. Accordingly, the Commercial Tax Department caused seizure and removed the goods from Railway premises. Between 30.1.2006 to 1.2.2006 the Commercial Tax Department seized 278 packages from the custody of the Railway Administration by giving a memo. The Railway Administration suggested to the*

Commercial Tax Department that the seizure being resorted to by the Department should be after open delivery incorporating in the seizure panchanama the kind, class and state of the goods. This is necessary because the Railway Administration stands exposed to the possible claims that may be lodged by the consignees in the eventuality of there being any damage to the goods during the period the goods are in custody of the Railway Administration."

Learned counsel for the petitioner also submits that as on today, they do not have any grievance and the respondents have started cooperating with the Officers in seeing that the law is not violated.

In view of the submissions made in the counter-affidavit and in view of the fact that the respondents have started cooperating with the petitioner, we feel no further orders are necessary to be passed in the writ petition and we direct the respondents to provide all the necessary assistance and cooperation to the petitioner in implementation of the provisions of the A.P.VAT Act, 2005.

The writ petition is accordingly disposed of. No order as to costs.

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(Bilal Nazki, J)

6th February, 2006

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(G.Chandraiah, J)

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